IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

Stefani Hobbs,	§	
Plaintiff,	§	
	§	
vs.	§	**CIVIL ACTION NO. 3:15-CV-29**
	§	
Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and UTMB Healthcare Systems, Inc.,	§	
	§	
Defendants.	§	

DEFENDANT UTMB HEALTHCARE SYSTEMS, INC.'S AFFIRMATIVE AND OTHER DEFENSES AND ANSWER TO PLAINTIFF'S ORIGINAL COMPLAINT

Defendant UTMB Healthcare Systems, Inc. ("Defendant") files its Affirmative and Other Defenses and Answer to Plaintiff's Original Complaint and states as follows:

To the extent any allegations are contained in the paragraph preceding Paragraph 1 of Plaintiff's Original Complaint, Defendant admits that the Plaintiff has purported to file a collective action against Defendants but denies any of the remaining allegations contained in this paragraph.

I.

NATURE OF CLAIMS

1. Defendant admits that the Plaintiff has filed a lawsuit arising under the Fair Labor Standards Act, 29 U.S.C. §201, et seq. ("FLSA") but denies the remaining allegations contained in Paragraph 1 of Plaintiff's Original Complaint.

II.

JURISDICTION AND VENUE

2. Defendant admits that Plaintiff has raised claims under the FLSA and denies the

remaining allegations contained in Paragraph 5 of Plaintiff's Original Complaint.

3. Defendant admits that it operates in this district but lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's remaining allegations contained in Paragraph 3 of Plaintiff's Original Complaint and, therefore, denies the remaining allegations contained in Paragraph 3 of Plaintiff's Original Complaint.

III.
THE PARTIES

4. Defendant denies it employed Plaintiff. With regard to the remaining allegations, Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's alleged residence and, therefore, denies the allegations contained in Paragraph 4 of Plaintiff's Original Complaint.

5. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations in Paragraph 5 of Plaintiff's Original Complaint and, therefore, denies the allegations contained in Paragraph 5 of Plaintiff's Original Complaint.

6. Defendant admits the allegations contained in Paragraph 6 of Plaintiff's Original Complaint.

IV.
FACTS

7. Defendant denies that it was Plaintiff or similarly situated individuals' employer within the meaning of 29 U.S.C. § 203(d). Defendant further lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 7 of Plaintiff's Original Complaint.

8. Defendant denies that it operates the hospital known as Angleton Danbury

Medical Center. Defendant further lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 8 of Plaintiff's Original Complaint.

9. Defendant denies that it employed Plaintiff as a nurse. Defendant further lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 9 of Plaintiff's Original Complaint.

10. Defendant denies that it was Plaintiff's employer and the remaining allegations contained in Paragraph 10 of Plaintiff's Original Complaint as they relate to Defendant. Defendant further lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 10 of Plaintiff's Original Complaint.

11. Defendant denies that it was Plaintiff's employer or that it engaged in any wrongdoing and further denies the remaining allegations contained in Paragraph 11 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 11 of Plaintiff's Original Complaint.

12. Defendant denies that it was Plaintiff's employer or that it engaged in any wrongdoing and, as such, denies the remaining allegations contained in Paragraph 12 of

Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 12 of Plaintiff's Original Complaint.

13. Defendant denies that it was Plaintiff's employer and, as such, lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations contained in Paragraph 13 and, therefore, denies the remaining allegations contained in Paragraph 13 of Plaintiff's Original Complaint.

14. Defendant denies that it was Plaintiff's employer and, as such, lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations contained in Paragraph 14 and, therefore, denies the remaining allegations contained in Paragraph 14 of Plaintiff's Original Complaint.

15. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 15 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 15 of Plaintiff's Original Complaint.

16. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 16 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a

Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 16 of Plaintiff's Original Complaint.

17. Defendant denies that it is an enterprise within the meaning of the FLSA under 29 U.S.C. § 203(r) and as such denies the allegations contained in Paragraph 17 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 17 of Plaintiff's Original Complaint.

18. Defendant denies that it is an enterprise within the meaning of the FLSA within the meaning of that term under 3(s)(1) of the FLSA and as such denies the remaining allegations contained in Paragraph 18 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 18 of Plaintiff's Original Complaint.

19. Defendant denies the allegations contained in Paragraph 19 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 19 of Plaintiff's Original Complaint.

20. Defendant denies the allegations contained in Paragraph 20 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton

Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 20 of Plaintiff's Original Complaint.

21. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 21 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 21 of Plaintiff's Original Complaint.

22. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 22 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 22 of Plaintiff's Original Complaint.

23. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 23 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 23 of Plaintiff's Original Complaint.

24. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 24 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth

or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 24 of Plaintiff's Original Complaint.

25. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 25 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 25 of Plaintiff's Original Complaint.

V.

PLAINTIFF'S INDIVIDUAL ALLEGATIONS

26. Because Paragraph 26 of the Plaintiff's Complaint makes no factual allegations or other assertions consistent with Rule 8(a) of the Federal Rules of Civil Procedure, no responsive pleading is required in connection with Paragraph 26. To the extent Paragraph 26 requires a response, Defendant hereby incorporates by reference the answers, denials, and defenses in Paragraphs 1 through 25 in response to the Plaintiff's Complaint as if repeated herein verbatim.

27. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 27 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 27 of Plaintiff's Original Complaint.

28. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 28 of Plaintiff's Original Complaint as they relate to

Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 28 of Plaintiff's Original Complaint.

29. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 29 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 29 of Plaintiff's Original Complaint.

30. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 30 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 30 of Plaintiff's Original Complaint.

31. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 31 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 31 of Plaintiff's Original Complaint.

32. Defendant denies that it was Plaintiff's employer and as such denies the

allegations contained in Paragraph 32 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 32 of Plaintiff's Original Complaint.

33. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 33 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 33 of Plaintiff's Original Complaint.

VI.
COLLECTIVE ACTION ALLEGATIONS

34. Because Paragraph 34 of the Plaintiff's Complaint makes no factual allegations or other assertions consistent with Rule 8(a) of the Federal Rules of Civil Procedure, no responsive pleading is required in connection with Paragraph 34. To the extent Paragraph 34 requires a response, Defendant hereby incorporates by reference the answers, denials, and defenses in Paragraphs 1 through 33 in response to the Plaintiff's Complaint as if repeated herein verbatim.

35. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 35 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 35 of Plaintiff's Original Complaint.

36. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 36 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 36 of Plaintiff's Original Complaint.

37. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 37 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 37 of Plaintiff's Original Complaint.

38. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 38 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 38 of Plaintiff's Original Complaint.

39. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 39 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in

Paragraph 39 of Plaintiff's Original Complaint.

40. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 40 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 40 of Plaintiff's Original Complaint.

41. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 41 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 41 of Plaintiff's Original Complaint.

42. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 42 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 42 of Plaintiff's Original Complaint.

43. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 43 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a

Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 43 of Plaintiff's Original Complaint.

44. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 44 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 44 of Plaintiff's Original Complaint.

45. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 45 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 45 of Plaintiff's Original Complaint.

46. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 46 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 46 of Plaintiff's Original Complaint.

47. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 47 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth

or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 47 of Plaintiff's Original Complaint.

48. Defendant denies that it was Plaintiff's employer and as such denies the allegations contained in Paragraph 48 of Plaintiff's Original Complaint as they relate to Defendant. Defendant lacks knowledge or information sufficient to form a belief about the truth or falsity of Plaintiff's allegations directed toward Angleton Danbury Hospital Foundation d/b/a Angleton Danbury Medical Center and, therefore, denies the remaining allegations contained in Paragraph 48 of Plaintiff's Original Complaint.

VII.
JURY DEMAND

49. Defendant admits that Plaintiff has requested a trial by jury. Except as expressly admitted, Defendant denies the remaining allegations contained in paragraph 49 of Plaintiff's Complaint.

VIII.
PRAYER

50. Defendant denies any allegations contained in paragraph 50 of Plaintiff's Second Amended Complaint and its subparagraphs (a) through (h) and denies that Plaintiff is entitled to any relief sought therein.

GENERAL DENIAL

Any allegations not specifically admitted, explained, modified, or denied herein are denied.

AFFIRMATIVE DEFENSES

By way of further answer, and without limiting in any way its general denial, Defendant affirmatively pleads the following defenses. Defendant specifically reserves the right to supplement these pleadings with further applicable defenses as more facts become available. To the sole extent that any defenses or legal theories may be interpreted as being inconsistent, Defendant states that such defenses or legal theories are pleaded in the alternative:

1. Plaintiff(s) have failed to state a claim upon which relief can be granted. This defense may also apply to the claims of some or all of the class of allegedly similarly situated persons.

2. Plaintiffs and any similarly situated individual's (collectively referred to as "Plaintiffs") were not employees of Defendant and, therefore, they have no claims under the Fair Labor Standards Act.

3. To the extent liability, affirmative defenses and/or damages, if any, to each member of the alleged group Plaintiff(s) purport to represent are not determined by a single jury or is determined on a group-wide basis, permitting this action to proceed as a collective or class action violates Defendant's rights under the Fifth, Seventh, Eighth and Fourteenth Amendments to the United States Constitution.

4. Defendant at all times acted in good faith to comply with the FLSA and with reasonable grounds to believe that its actions did not violate the FLSA, and Defendant asserts a lack of willfulness or intent to violate the FLSA as a defense to any claim by Plaintiff(s) for

liquidated damages. This defense may also apply to the claims of some or all of the class of allegedly similarly situated persons.

5. Plaintiff(s)' claims are barred in whole or in part by the provisions of Section 10 of the Portal-to-Portal Act, 29 U.S.C. § 259, because actions taken in connection with Plaintiffs' compensation were done in good faith in conformity with and reliance upon written administrative regulations, orders, rulings, approvals, interpretations, and written and unwritten administrative practices or enforcement policies of the Administrator of the Wage and Hour Division of the United States Department of Labor. This defense may also apply to the claims of some or all of the class of allegedly similarly situated persons.

6. Plaintiff(s)' claims are barred in whole or in part by the provisions of Section 11 of the Portal-to-Portal Act, 29 U.S.C. § 260, because any acts or omissions giving rise to this action were done in good faith and with reasonable grounds for believing that the actions or omissions were not a violation of the FLSA. This defense may also apply to the claims of some or all of the class of allegedly similarly situated persons.

7. This case may not be maintained as a collective action because the named Plaintiff(s) are not similarly situated to or otherwise an adequate representative for the persons whom they purport to represent and, thus, cannot satisfy the requirements under 29 U.S.C. § 216.

8. The entire collective action complaint seeking class-wide relief must be dismissed, as there is no appropriate class representative.

9. There are no employees of Defendant who are similarly situated to Plaintiff(s), as that term is defined and/or interpreted under the FLSA, 29 U.S.C. § 216(b).

10. Plaintiff(s) are not entitled to equitable relief insofar as they had an adequate remedy at law. This defense may also apply to the claims of some or all of the class of allegedly similarly situated persons.

11. To the extent applicable, Plaintiff(s)' claims are barred by the equitable doctrines of waiver, estoppel, unclean hands, and/or laches. This defense may also apply to the claims of some or all of the class of allegedly similarly situated persons.

12. Plaintiff(s)' claims are barred, in whole or in part, by the doctrine of *de minimis non curat lex*. This defense may also apply to the claims of some or all of the class of allegedly similarly situated persons.

13. Plaintiff(s)' claims are barred, in whole or in part, by the provisions of Section 4 of the Portal-to-Portal Act, 29 U.S.C. § 254, as to all hours during which Plaintiff(s) were engaged in activities which were preliminary or postliminary to their principal activities or incidental to them. This defense may also apply to the claims of some or all of the class of allegedly similarly situated persons.

14. Plaintiff(s)' claims, or the claims they seek to assert on behalf of others, must fail to the extent they lack standing to bring suit and/or prosecute this action against Defendant and/or to receive any attorneys' fees.

15. Plaintiff(s)' claims are barred, in whole or in part, by applicable statutes of limitations.

16. Plaintiff(s)' damages, if any, were not caused by any action taken by Defendant.

17. Plaintiff(s) cannot recover from Defendant because of the doctrine of sovereign immunity.

18. Plaintiff(s) cannot recover from Defendant because it is not a successor of Defendant Angleton Danbury Hospital Foundation.

19. Defendant reserves the right to assert additional defenses or claims which may become known during the course of discovery.

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully requests that the honorable Court enter judgment that Plaintiff(s) take nothing, and that Defendant be awarded its costs, attorneys' fees, and such other and further relief to which it is entitled.

Dated: March 19, 2015

Respectfully submitted,

/s/ David B. Jordan

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**ATTORNEYS FOR DEFENDANT
UTMB HEALTHCARE SYSTEMS, INC.**

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served upon the following via certified mail and ECF on this 19th day of March 2015.

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*/s/ David B. Jordan*_______________
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